INTERVIEW SUMMARY UNDER 37 CFR §1.133 AND MPEP §713.04

A telephonic interview in the above-referenced case was conducted on October 19, 2009 between the Examiner and the Applicants' undersigned representative. The Office Action mailed on July 21, 2009 was discussed. Specifically, the rejections of claims 1 and 20 – 21 in light of St. Pierre et al., Godwin, and Krishnamurthy and the proposed amendments set forth herein were discussed with the intent to place the claims in better condition for allowance or appeal.

The Applicants wish to thank the Examiner for the interview.

REMARKS

Claims 2, 6, 8, 10, 14, and 19 have been cancelled. Claims 1, 3, 4, 18, 20, and 21 have been amended to clarify the subject matter regarded as the invention. Claims 29 – 34 are new. Claims 1, 3, 4, 13, 17, 18, and 20 – 34 are pending.

Independent claims 1 and 20 – 21 have been rejected under 35 U.S.C. §103(a) as being unpatentable over St. Pierre et al. (hereinafter referred to as St. Pierre), in view of Godwin, and further in view of Krishnamurthy.

Independent claims 1 and 20 – 21 have been amended to recite "determining an offset, from a beginning of a collection of records" where "the collection of records includes a file metadata file that includes one or more variable-length records associated with those file system elements that are files and a directory metadata file that includes one or more variable-length records associated with those file system elements that are files" and "using the determined offset to retrieve the record from the collection of records on a storage device, including by retrieving the record from the file metadata file at the determined offset in the event the file system element is a file or by retrieving the record from the directory metadata file at the determined offset in the event the file system element is a directory". For convenience and without limitation, Figure 2 shows an embodiment of a "directory metadata file" and Figure 4 shows an embodiment of a "file metadata file". Also for convenience and without limitation, step 708 in Figure 7A and steps 760 and 766 in Figure 7B shows an embodiment of "retrieving the record from the file metadata file at the determined offset in the event the file system element is a file or by retrieving the record from the directory metadata file at the determined offset in the event the file system element is a directory".

Figure 9 of St. Pierre (cited by the Examiner) describes a process for performing a discovery phase (see, Col. 11, lines 58 – 59) which "drills-down" to identify information to be backed up at the application level at 90, to the file system level at 92, to the LVM level at 94, and to the physical level at 96. This is not the same thing as "determining an offset, from a beginning of a collection of records" where "the collection of records includes a file metadata file that includes one or more variable-length records associated with those file system elements that are files and a directory metadata file that includes one or more variable-length records

associated with those file system elements that are files" and "using the determined offset to retrieve the record from the collection of records on a storage device, including by retrieving the record from the file metadata file at the determined offset in the event the file system element is a file or by retrieving the record from the directory metadata file at the determined offset in the event the file system element is a directory". For example, the discovery process of Figure 9 does not determine an offset, nor does Figure 9 show the determined offset being used to retrieve the record from the file metadata file at the determined offset if the file system element is a file or to retrieve the record from the directory metadata file at the determined offset if the file system element is a directory.

Col. 5, lines 18 – 40 of Godwin (cited by the Examiner) describes a technique for estimating a location, including by obtaining an offset (e.g., 200 KB), combining the offset with an initial compression rate estimate (e.g., 50%), to obtain a second offset (e.g., 100 KB), and determining a number of fixed-length records that the second offset corresponds to (e.g., ~2½ records if a fixed length record is 40 KB long). This is not the same thing as "determining an offset, from a beginning of a collection of records" where "the collection of records includes a file metadata file that includes one or more variable-length records associated with those file system elements that are files and a directory metadata file that includes one or more variable-length records associated with those file system elements that are files" and "using the determined offset to retrieve the record from the collection of records on a storage device, including by retrieving the record from the file metadata file at the determined offset in the event the file system element is a file or by retrieving the record from the directory metadata file at the determined offset in the event the file system element is a directory". For example, Godwin's records are of fixed length not variable length (see, e.g., Col. 5, lines 30 – 31) and advancing a tape to the beginning of a third record and reading a third label (see, e.g., Col. 5, lines 33 – 35) is not the same thing as "retrieving the record from the file metadata file at the determined offset in the event the file system element is a file or by retrieving the record from the directory metadata file at the determined offset in the event the file system element is a directory".

Paragraph 31, lines 10 – 17 of Krishnamurthy describes handling of a read request of time t0 data. In response to the read request, "the read operation [is directed to] to either the source drive or the target drive based on the segment metadata table entry corresponding to the offset which is the subject of the read request." Accessing a source driver or a target drive is not

the same thing as "retrieving the record from the file metadata file at the determined offset in the event the file system element is a file or by retrieving the record from the directory metadata file at the determined offset in the event the file system element is a directory".

It is therefore believed that amended claims 1 and 20 – 21 are allowable over St. Pierre, Godwin, and Krishnamurthy.
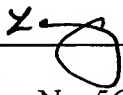
Claims 3, 4, 13, 17, 18, and 22 – 34 each depend from one of claims 1 and 20 – 21 and are believed to be allowable for the same reasons described above.

Claims 29 – 34 are new. For convenience and without limitation, support for claims 29 – 31 can be found in page 9, lines 10 – 14 and support for claims 32 – 34 can be found in page 6, lines 9 – 16 and page 7, line 18 – page 8, line 7.

Reconsideration of the application and allowance of all claims are respectfully requested based on the preceding remarks. If at any time the Examiner believes that an interview would be helpful, please contact the undersigned.

Respectfully submitted,

Dated: _____10/21/09_____

_____

Laura Ing
Registration No. 56,859
V 408-973-2581
F 408-973-2595

VAN PELT, YI & JAMES LLP
10050 N. Foothill Blvd., Suite 200
Cupertino, CA 95014